

Alaska Department of Environmental Conservation
and

Environmental Protection Agency

State Fiscal Year 2015

July 1, 2014 – June 30, 2015

DRAFT 5.22.14

This Agreement constitutes the State of Alaska's relationship with the United States Environmental Protection Agency under the National Environmental Performance Partnership System. The Alaska Department of Environmental Conservation enters into this Agreement for the State of Alaska with EPA Region 10 for state fiscal year 2015 (July 1, 2014 – June 30, 2015).

This Agreement describes the expected work and performance results for each of the agencies. The Performance Partnership Agreement is an important tool that strengthens the protection of the environment by encouraging flexibility to focus on the activities that achieve the best environmental results consistent with the missions and authorities of each agency.

DATE: _____

Larry Hartig, Commissioner
Alaska Department of Environmental Conservation

DATE: _____

Dennis McLerran, Regional Administrator
U.S. Environmental Protection Agency, Region 10

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Introduction and Purpose

The National Environmental Performance Partnership System is a framework designed to achieve better environmental results by focusing the capacities and resources of the Environmental Protection Agency (EPA) and states to jointly address the most pressing environmental problems. Common goals, priorities, and strategies are based on information about environmental conditions, and progress is evaluated based on results actually achieved in the environment. Performance Partnership Agreements (PPA), through which EPA and states set priorities and design strategies, are intended to strengthen protection of the environment by focusing resources on agreed upon environment protection goals.

This state fiscal year (SFY) 2015 PPA describes the overlapping missions of the Department of Environmental Conservation (DEC) and EPA for protecting Alaska's environment. This Agreement describes how each agency will work together to achieve joint priorities and performance expectations in order to address Alaska's most important environmental and public health protection issues.

The purpose of this Agreement is to establish mutual priorities and performance expectations for both agencies during SFY 2015. This Agreement includes specific commitments made by each agency regarding Alaska's most important environmental priorities for the period July 1, 2014 – June 30, 2015.

I. Missions

DEC and EPA Region 10 both share a common mission to protect Alaska's environment consistent with State and Federal law.

DEC Mission:

Protect human health and the environment.

EPA Region 10 Mission:

Protect and restore the environment of the Pacific Northwest and Alaska for present and future generations.

II. Agreement Coverage

This Agreement is based on the National Environmental Performance Partnership System (NEPPS) and EPA's Office of Congressional and Intergovernmental Relations NEPPS FY 2015 National Program Guidance, which allows states flexibility to address their highest environmental priorities and establish resource allocations based on

those priorities. This Agreement includes DEC and EPA Region 10 environmental priorities that have been identified as areas of partnership for the two agencies. The guiding principles and concepts of this Agreement apply to all DEC and EPA interactions even though this Agreement does not cover all DEC programs receiving EPA grant assistance.

In addition to this Agreement, the State of Alaska receives two Partnership Performance Grants (PPGs), which include specific work plan commitments for water quality programs and radon, air quality and pesticides programs. The purpose of the PPGs is to reduce the administrative burden by consolidating several grants into one and to increase the flexibility of DEC to move resources within the water quality programs and within the air, radon, and pesticides programs to meet Alaska's highest environmental needs. **The PPGs and workplans are included as an appendix to the final Agreement.**

As explained in the draft NEPPS FY 2015 Guidance, "It is important to note that once grants are combined in a PPG, funds do not have to be tracked by the original program source." PPG expenditures should be focused on negotiated priorities using funding methods and work plans developed by the state and approved by EPA. At the end of the fiscal year, DEC is not expected under this Agreement to account for how PPG funding has been allocated by the original funding program source.

III. State of Alaska

Alaska is the nation's only arctic state, with environmental issues more common to Russia, Finland, Sweden, Norway, Greenland, and Canada than to other states. Alaska is also the largest ocean state in the country, and its oceans include the North Pacific Ocean and the Bering, Chukchi, and Beaufort Seas. Alaska has 33,904 miles of shoreline – twice the length of all the other states combined. The estimated tidal shoreline, including islands, inlets and shoreline to head of the tidewater, is 47,300 miles. Alaska occupies 20% of the nation's land base, has 40% of the nation's surface water, and contains half the nation's wetlands.

Alaska has vast proven and unexplored natural resources. Alaska's oceans and coastal watersheds produce 10% of the nation's oil, over 50% of the nation's seafood, and minerals from several world-class mines, including the world's largest operating zinc mine and the largest producer of silver in the United States.

The unique regional qualities of Alaska's ocean and watershed resources are also reflected in their quality. Alaska's resources, for the most part, are healthy, productive, and relatively pollution-free. EPA's most recent report on the condition of the nation's coast concludes that, "Alaska's coastal resources are generally in pristine

condition. Concentrations of contaminants have been measured at levels significantly lower than those in the rest of the coastal United States.”

Most of Alaska’s communities are isolated, small, and can only be reached by air or water. There is no statewide power grid, so most Alaska communities depend on energy produced from individual community diesel generators. Alaska is also the home of 229 federally recognized Tribes in Alaska – over 40 percent of the nation’s total number of Tribes.

Alaska’s state resource and public health protection agencies are actively pursuing appropriate forums for coordinating with their federal agency counterparts on environmental and public health protection issues of mutual concern.

IV. Priorities

1. Timely Communication on High Priority Projects/Issues

DEC and EPA shall encourage effective and timely communication on large or high priority projects.

DEC and EPA will:

- Designate for specific mining and oil and gas projects Project Managers or Team Leads who will serve as the primary points of contact for the agencies to meet and review the status of ongoing projects, schedules, and issues. Mining and Oil and Gas sector managers will meet on a routine basis to review status of major projects, discuss federal and state legal and policy requirements, and identify any issues needing resolution.
- Maintain communication as needed throughout the year to facilitate the resolution of mutual concerns that might arise in Alaska regarding toxic release inventory (TRI) reporting and data use.
- Identify, via the DNR-led Large Project call and the shared project spreadsheet, high priority Clean Water Act (CWA) §404 Program projects or National Environmental Policy Act Actions that need special coordination or more frequent communications as issues arise. Identify a point of contact for each agency.

EPA will:

- Continue to provide technical assistance including review and comments for TRI documents and brochures to help Alaska educate its citizens on TRI. Prior

examples of this assistance include the “Guide to the Toxics Release Inventory for Alaska” and “Factors to Consider when Using TRI Data”.

- Maintain timely notice of activities from EPA Headquarters and EPA Region 10 including proposed rulemaking changes that may affect Alaska.
- Keep DEC apprised of the status of the “Waters of the U.S.” draft rulemaking, including opportunities to be involved in the rulemaking process.

2. Oil and Gas Coordination

Oil and gas exploration in the Alaska onshore and offshore, as well as Outer Continental Shelf (OCS), is increasing and may ultimately result in new development and production activities. Because of current and future shared permitting responsibilities, DEC and EPA will need to continue to develop and define roles and approaches for permit development and compliance activities. EPA and DEC will meet quarterly, or on an as-needed basis, to coordinate oil and gas issues and actions of mutual interest. Oil and gas managers will brief senior managers on the status of major projects, discuss federal and state legal and policy requirements, and identify any programmatic issues needing resolution or work group development. DEC will build capacity for shale oil expertise and develop a permitting strategy.

3. Climate Change

Climate change is expected to have serious impacts in Alaska, but it is not just an environmental issue, it is also a social, cultural, and economic issue important to all Alaskans. The impacts of climate change include coastal erosion and flooding, increased storm effects, sea ice retreat, thawing permafrost and ocean acidification, all of which can affect both subsistence and commercial activities. The extent and duration of these impacts will largely be determined by our collective success in reducing future emissions of greenhouse gases and developing adaption strategies to address the impacts. Individual actions will be addressed in the programmatic sections that follow.

EPA and DEC will:

- Work to identify climate change research needs in Alaska and potential resources and partners to participate in this research. This effort will tie in to the work of the Alaska Arctic Policy Commission and include adaptation strategies being considered by other Arctic nations. This research will support decisions to help reduce infrastructure vulnerability, build ecosystem resilience and help protect and restore critical ecological functions. The research may also identify opportunities for reducing greenhouse gas emissions.

4. Clean Water Act §404 Program Assumption

Given the prevalence of wetlands in the state, Alaska has long had an interest in developing a wetlands program, determining how such a program would interface with federal agencies and other stakeholders, and evaluating whether to submit a CWA §404 Program assumption application. With the passage of new legislation in 2013 and the commitment of new resources, the state is exploring both a 404 Program assumption application and opportunities to develop state programmatic general permits (SPGPs). 404 Program assumption and SPGP development require significant information sharing and collaboration to investigate and pursue.

DEC and EPA will:

- Identify points of contact to communicate about the state's exploration of assumption of the CWA §404 Program and the development, with the U.S. Army Corp of Engineers, of a state programmatic general permit.
- Collaborate on the development of a joint Memorandum of Understanding (MOU) to cover the period during which the state will explore assumption of the CWA §404 Program. The MOU will include:
 - Points of contact for each agency
 - A timely process for information requests and information exchanges
 - A process for elevating disagreements in order to reach consensus

DEC will:

- Inform EPA of the state's progress exploring the assumption of the CWA §404 Program and SPGP development.
- Participate on the EPA and U.S. Army Corp of Engineers led statewide Interagency Review Team for implementation of the 2008 Mitigation Final Rule.

EPA will:

- Provide technical advice on the CWA Section 404(g) requirements.
- Attend public meetings to answer questions about the assumption process, requirements of the CWA, and the extent of EPA oversight of the assumed program.
- Appoint a staff person and attorney point-of-contact for this effort and meeting regularly with DEC to discuss progress.
- Apprise DEC of grant and training opportunities.

- Update DEC on CWA §404 program and assumption developments on a national and regional basis.

Commented [MG1]: Waiting for an update

5. Rural Alaska Environmental Challenges

In order to improve environmental conditions in rural Alaska, DEC and EPA will work to improve collaborative strategic planning efforts with Tribes and rural communities in Alaska. A key component of meeting common goals is communication on a regular basis between EPA, DEC, and Alaska Tribes about technical assistance and educational and funding opportunities so that information can be shared with Tribes. The goal is to create opportunities for partnerships between DEC, EPA, and the Alaska Tribes.

DEC has identified several environmental issues that are specific to rural Alaska, including the effects of long-term exposure to the exhaust from the diesel generators that provide electrical power to nearly all of the rural villages, fine and coarse particulate dust pollution in rural communities, and sustainable operation and maintenance of village sanitation projects and landfills. EPA has seen increasing evidence that burning of solid waste in burn barrels and at open dumps or landfills may be posing significant health risk to rural Alaska communities. Additionally, high energy costs in villages are leading to an increased use of biomass for heat – either through use of residential wood stoves, small wood boilers, or district-wide biomass boilers/hydronic heaters - which contribute to particulate pollution, especially if not operated or maintained properly.

EPA has a government-to-government relationship with and trust responsibility to Tribes. EPA Region 10 will continue to work in partnership and consultation with all federally recognized Tribes. EPA recognizes that Tribes have the authority to set their own environmental priorities and will continue to work with Tribes in a manner that acknowledges tribal sovereignty and self-determination. In implementing the Indian Environmental General Assistance Program (IGAP), EPA works to build tribal environmental capacity and adequate internal mechanisms to help Tribes improve environmental protection. The IGAP provides grants to Tribes for the purpose of developing their capacity to develop and implement environmental protection programs. The new IGAP guidance calls for the development of EPA/Tribal Environmental Plans that will reflect EPA and Tribal priorities and their relative roles in achieving those priorities. The Region 10 Office of Air, Waste and Toxics's Tribal Solid Waste Liaison will provide technical assistance, as resources are available.

Under Alaska's federally recognized constitution, Alaska Natives and members of Alaska's federally recognized Tribes have all the rights and responsibilities of Alaska citizenship. Under state law, DEC serves the interests of all Alaskans as represented by the state's elected officials.

The Region 10 Tribal Air Team works collaboratively with DEC, Tribes, and other partners to increase understanding and support strategies to address the causes and prevention of air pollution in rural Alaska.

EPA and DEC will:

- Continue to support regular teleconference calls with tribal environmental professionals, and other partners to raise awareness and share possible response strategies to air pollution from residential and community-wide wood heating, road dust, solid waste burning, diesel emissions, and indoor sources.
- Participate in the Alaska Forum on the Environment, the Alaska Tribal Conference on Environmental Management, and other appropriate venues to better communicate with Tribes and other partners on climate change, solid waste, water quality and air-related initiatives and topics relevant to rural Alaska and tribal communities.
- [Placeholder for addressing climate change adaption plans?]
- Continue to help Tribes to take steps to bring their open dumps into compliance with State of Alaska solid waste regulations and to reduce health impacts from any solid waste burning practices.
- Continue to collaborate with state, federal, and tribal agencies and organizations to support mitigation of road dust pollution and to raise the capabilities of rural communities to access available funding, resources, and information. Work with those partners to effectively mitigate coarse particulate matter pollution (PM10) to levels in compliance with the National Ambient Air Quality Standards (NAAQS) and safer for public health.
- Work collaboratively with Tribes and other federal, state, and local agencies and organizations to find the most effective partnerships that will support solutions to air quality concerns related to wood smoke, solid waste burning, diesel emissions, and road dust.
- Work together on air quality issues associated with open burning in dumps, burn barrels, or any other solid waste burning. DEC Air Quality staff will provide technical assistance to EPA staff including outreach and education activities.

Commented [MG2]: Proposed language references a climate change adaptation implementation plan that has not been reviewed.

- Collaborate through regular communication on work with rural communities for increased air quality monitoring and emission data on conference calls with rural governments and Tribes on air pollution concerns, and on other opportunities to provide more effective information and support to rural communities and to better understand and address local air pollution sources. DEC Air Quality is actively working with the Alaska Native Tribal Health Consortium, the City and Borough of Yakutat, and the Yakutat Tlingit Tribe to assess the air quality impacts of two new biomass boilers that the Alaska Energy Authority is helping to fund for Yakutat. Air monitoring should commence during the early state fiscal year 2015.
- Continue to use environmental justice tenets to improve communications with rural Alaskans. Strategies include understanding affected communities and how to most effectively make information available, developing understandable and accessible materials, making personal contacts, and providing clear technical information, as well as providing opportunities to influence decision-making.

DEC will:

- Implement changes to its Class III landfill program in rural Alaska with the goal of increasing the number of permitted Class III landfills and improving regulatory compliance at all Class III landfills.

EPA will:

- Continue to coordinate with federal and state agencies to address solid waste issues in rural Alaska. To date this group has identified a series of actions to form an understanding of the current state of waste management in rural Alaska. These initial actions include an analysis of the costs to operate a sustainable waste management program in rural Alaska, literature search to evaluate human health risks associated with uncontrolled wastes, and a matrix of selection criteria and priorities from the Indian Health Service, USDA-RD and EPA Hazardous Waste funding programs. They will also investigate rural waste control methods that have been effective in other countries for their possible application in Alaska.
- Partner with the DEC Brownfield program to support their outreach to rural communities.

- Raise awareness of climate change by providing educational outreach, training, and webinars to Tribes and work with the Institute for Tribal Environmental Professionals on tribal climate change adaptation models and resources.
- Invite experts from DEC and EPA to share information with Tribal IGAP grantees on air quality issues and their potential impact on human health, such as dust, mold, wood smoke, diesel emissions, climate change, children's environmental health, and other relevant issues.

6. Compliance and Enforcement

EPA has primary compliance and enforcement responsibility for non-delegated federal environmental programs and in “Indian Country” in Alaska as defined in 18 U.S.C. Section 1151. DEC has primary compliance and enforcement responsibility for the state’s environmental laws and delegated federal environmental and public health protection programs. It is essential that EPA and DEC coordinate compliance and enforcement with each other.

EPA and DEC will provide required compliance and enforcement information to each other in an appropriate and timely manner. Current relevant documents include (1) DEC’s Enforcement Manual; (2) the November 2006 Compliance Assurance Agreement between DEC’s Air Permits Program and the EPA Office of Air; (3) the Drinking Water Enforcement Response Policy of 2009 in conjunction with the Compliance and Enforcement Strategy between DEC’s Drinking Water Program and EPA Region 10’s Office of Water and Watersheds Drinking Water Unit; and (4) the National Pollutant Discharge Elimination System Memorandum of Agreement between the State of Alaska and United States Environmental Protection Agency, Region 10 (Amended August 11, 2011).

The State Review Framework (SRF) is EPA’s national tool for evaluating performance in the Clean Air Act (CAA) Stationary Sources, Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES), and RCRA Subtitle C compliance and enforcement programs. The SRF was developed to promote consistent levels of activity and oversight in state and regional enforcement programs and consistent levels of environmental protection across the country. The SRF process to evaluate DEC’s CAA and CWA compliance and enforcement programs was initiated in 2013 and will be completed in 2014.

DEC will:

- Participate in the SRF assessment scheduled for completion in 2014.
- Work with EPA to implement recommendations and corrective actions to address areas that need improvement as identified in the 2014 SRF reports.
- Per EPA Office of Enforcement and Compliance Assurance (OECA) protocol, complete the annual review and data verifications of DEC compliance and enforcement data in the Enforcement and Compliance History Online (ECHO) database and correct data if needed during timeframes designated by OECA.

EPA will:

- Complete the final SRF report in 2014, including incorporating DEC comments on the draft report.
- Provide DEC the opportunity to review and comment on draft SRF results and address those comments in the final SRF report.
- Develop annual data metric analyses based on the ECHO data following the national data verification period.

Commented [MG3]: Subject to deletion if EPA completes the report by the end of this fiscal year.

7. Division of Water

A. Alaska Pollutant Discharge Elimination System - Program Capacity Building and Implementation

DEC will continue to develop its capacity to implement the Alaska Pollutant Discharge Elimination System (APDES) permitting and compliance and enforcement programs, with assistance from EPA. The effort will focus on permitting and tribal and community involvement, as well as compliance and enforcement activities. Working together to build the APDES program capacity, including robust permitting and compliance and enforcement programs, continues as a high priority.

DEC and EPA will:

- Keep each other informed of planned industry workshops or outreach opportunities regarding the APDES program.

DEC will:

- Provide EPA with draft templates, standard operating procedures, and guidance documents for review and feedback.

EPA will:

- Inform DEC of NPDES training opportunities in permitting, compliance, and enforcement.

B. CWA Action Plan. EPA's CWA Action Plan includes efforts to build robust and credible permitting and compliance and enforcement programs, as well as to ensure consistent permitting decisions and enforcement actions across states to maintain a fair and level playing field for the regulated community and the public.

DEC and EPA will:

- In accord with the CWA Action Plan, conduct an annual integrated NPDES/APDES work planning session that includes the permitting, compliance and enforcement efforts of both agencies. The session will include discussion of priorities, capacity building, performance expectations, updates on issues and activities, inspection and enforcement targets, and opportunities and actions for integrating work between EPA and DEC and/or between the permitting, compliance and enforcement programs.
- Include key items from the integrated work planning session in subsequent PPAs or PPGs, as appropriate. Ensure that the Integrated Work Plan elements are not duplicative commitments agreed to in the PPA or the PPG work plan in order to avoid unnecessary and duplicative reporting.

C. Permit Quality Review. EPA will conduct a Permit Quality Review (PQR) assessment for 2013 - 2014.

DEC will:

- Review and comment on the draft PQR.
- Work with EPA to implement recommendations and address areas that need attention as identified in the PQR reports.

EPA will:

- Provide timely information on PQR guidance, training, and process.
- Provide DEC the opportunity to review and comment on draft PQR results and address those comments in the final PQR report.

D. Tribal Communications.

DEC will:

- Continue to provide early notification to potentially affected Tribes of DEC's proposed permitting decisions.

EPA will:

- Provide information and technical assistance to DEC staff to support development of tribal communication plans and with incorporating traditional knowledge into the permitting process.
- Share information about APDES actions on request with Tribal governments through the Tribal environmental staff.
- Work with DEC staff in sharing the model tribal communication plan at technical sessions in conjunction with large events, including but not limited to, the Alaska Forum on the Environment.

E. Permit Issuance

An important measure of EPA and state program effectiveness is tracking the percentage of permits that have expired or are 'backlogged'. Backlog percentages are tracked nationally as performance measures. DEC believes the backlog in Alaska is larger than indicated by the national database and that considerable time is needed to reduce the backlog. This backlog issue is further compounded by the fact that the surface water discharge permits issued by the State prior to achieving primacy must now be reissued as APDES permits. These reissued permits represent a substantial workload for the department in addition to the workload of the permit backlog. Both agencies remain committed to timely issuance of permits to reduce the number of backlogged permits. DEC and EPA's top priority is to issue permits that meet CWA requirements on a timely basis in accordance with the agencies' permit issuance plans.

DEC and EPA will:

- Work cooperatively towards timely permit issuance and reduction of the permit backlog.
- Develop permit issuance plans and coordinate permitting for activities that may occur in both EPA and DEC jurisdictional areas (primarily marine discharges). The plans will identify specific permits along with a general timeframe for issuance.
- Update permit issuance plans, as necessary.

- Meet monthly, which includes semi-annual in-person meetings as budgets allow, to assess progress on permit issuance, conduct substantive issue discussions, and coordinate permit issuance efforts.
- Resolve permit issues using the elevation process outlined in June 2011.

DEC will:

- Provide EPA with early notification of potential permit issues in order to timely resolve those issues before the public notice period.

EPA will:

- Review and provide comments on draft APDES permits during the public notice period, with some exceptions.
- Work with EPA Headquarters to clarify the seafood processors effluent limitation guidelines as they apply to Alaskan waters, particularly with respect to suspension of the guidelines in the “non-remote” communities.
- Provide information and keep DEC apprised of revised or new policy issues and revisions to NPDES regulations.
- Provide information and technical assistance to DEC staff to support development of tribal communication plans and with incorporating traditional knowledge into the permitting process.

F. Oil and Gas Coordination.

On October 31, 2012, EPA transferred the final phase of the NPDES program authority to DEC, which included the oil and gas sector. EPA retains permitting authority for discharges to the OCS. EPA also retains jurisdiction over the state portion of the Beaufort Sea Exploration General Permit, which is under appeal. Upon resolution of the appeals, authority for the discharges to state waters will transfer to DEC.

In the process of developing permits associated with oil and gas activities, EPA and DEC will continue to coordinate closely, including completion of Ocean Discharge Criteria Evaluations (ODCEs), review and consideration of information from Traditional Knowledge and environmental monitoring programs, and coordination of outreach activities and tribal consultations. Continuity between federal and state wastewater discharge permits is a significant concern for industry, tribal governments, and other stakeholders.

EPA and DEC will continue to coordinate on the following oil and gas permits and activities:

- Cook Inlet Exploration General Permits
- Beaufort Exploration General Permit and Petition for Review
- Permitting for Geotechnical Investigations and Surveys in the Arctic
- Effluent Limitation Guidelines for the Oil and Gas Coastal Subcategory

G. Compliance and Enforcement Programs

EPA and DEC's increased efforts to build robust and credible compliance and enforcement programs in Alaska is particularly critical at this time. The EPA Office of Inspector General's report, *EPA Must Improve Oversight of State Enforcement*, (Report No. 12-P-0113, December 9, 2011), found EPA's and DEC's CWA compliance and enforcement programs in Alaska were underperforming. To track progress in implementing the compliance and enforcement programs in SFY2015, EPA and DEC will prioritize efforts and use available mechanisms (such as SRF, integrated NPDES/APDES work planning, work sharing, direct EPA enforcement, training, shadowing, etc.) to improve performance of compliance and enforcement programs.

DEC and EPA will:

- Convene an annual NPDES / APDES integrated planning session in accord with the CWA Action Plan.
- Develop an integrated work plan in accordance with EPA's CWA Action Plan.
- Meet quarterly, or more often as needed, to discuss program implementation activities. In addition to these program unit level communications, the directors of the DEC Division of Water and the EPA Office of Compliance and Enforcement will meet monthly to discuss program implementation activities, including the status of DEC's implementation of SRF recommendations and corrective actions.
- Develop and share draft lists of anticipated NPDES and APDES inspection candidates to serve as the calendar year 2015 Compliance Monitoring Strategy Work Plan. The inspection lists will be consistent with EPA's Compliance Monitoring Strategy and take into account sector strategies and consideration of State priorities. DEC and EPA will coordinate any changes to the final inspection schedules throughout the inspection year, preferably prior to the inspection.

- Share inspection results and reports, as well as planned enforcement actions.
- Identify EPA enforcement cases where DEC can participate in building the enforcement case or participate in calculating penalties.
- Will jointly review the long term list of intractable drinking water systems put together by EPA and if DEC has exhausted all options to get the systems to return to compliance, DEC will refer cases to EPA to achieve successful compliance with SDWA requirements for the public health protection of residents and visitors to the State of Alaska.

EPA will:

- Provide coaching, on-site compliance and technical assistance and, and realistic functional written guidance assistance to further develop DEC's compliance and enforcement program and review and provide feedback on DEC's templates for tracking inspections and enforcement actions, timelines, and process for assuring that effective compliance and enforcement activities occur.
- Use available mechanisms, including direct enforcement actions where appropriate, to ensure effective and timely implementation of the SRF recommendations and corrective actions and address the 2011 EPA Office of Inspector General's report findings on enforcement performance.

H. Timely Revisions of State Water Quality Standards

Water quality standards (WQS) are the foundation of Alaska's water protection and restoration efforts. DEC is required by the CWA to conduct a comprehensive review of Alaska's WQS every three years to integrate current science and technology. Before changes to the WQS can take effect for CWA purposes, EPA must approve them. DEC and EPA are committed to working together collaboratively to ensure that appropriate WQS are in place. Due to ongoing delays in approval, this priority needs immediate attention.

DEC and EPA will:

- Continue to work together on development of antidegradation implementation procedures as the highest priority for the Triennial Review.

Commented [MG4]: Language waiting EPA concurrence.

Commented [MG5]: Language awaiting EPA concurrence

- Work together on other high priorities needing work that may include site-specific criteria, use attainability analyses, and human health criteria (fish consumption).
- Resolve WQS issues including EPA decisions on DEC's mixing zone and residues regulations.
- Work together early in the WQS revision process to identify the information, data, and justification that may be needed to support the timely approval of changes to the WQS.
- Include early involvement of National Oceanic and Atmospheric Administration National Marine Fisheries Service and U.S. Fish & Wildlife Service in WQS revisions when an Endangered Species Act or Essential Fish Habitat consultation may be required.
- Work together as EPA completes Tribal government-to-government consultation on WQS review actions.

DEC will:

- Work on development of antidegradation implementation procedures as the highest priority for the Triennial Review.
- Work to meaningfully involve tribal and local government representatives in the development of the antidegradation implementation procedures and human health criteria.
- Provide EPA an opportunity to review draft revisions to WQS and to discuss their comments with DEC prior to the public comment period with a goal of ensuring consistency with the CWA.
- Provide timely comments on national WQS rulemaking, recommended water quality criteria, and WQS policies to identify scientific, policy or implementation concerns for Alaska's waters.

EPA will:

- Provide timely review of draft antidegradation regulations.
- Keep DEC informed of EPA plans and drafts for regulations affecting or implementing antidegradation policies.
- Work towards final actions on the mixing zone and residues WQS revisions already adopted by the state.

- Identify issues that may be unique to Alaska waters in national WQS rulemaking and policy discussions, where appropriate.
- Provide timely review of draft revisions to Alaska's WQS to ensure their consistency with the CWA.
- Provide assistance to DEC to develop a tribal involvement approach, similar to the APDES tribal communication protocol, with the assistance of DEC's APDES local and tribal government coordinator.

I. Surface WQ Assessment, Restoration, and Protection (Nonpoint Source)

Nonpoint sources of pollution can contribute significantly to water pollution in Alaska. Controlling and preventing nonpoint source pollution is challenging and requires the cooperation of local, state, and federal land managers to avoid costly waterbody restoration actions on polluted waters.

EPA and DEC will:

- Coordinate and implement activities that will control nonpoint source pollution, identify high priority watersheds for protection, and restore waters that are impaired. EPA will work in partnership with DEC's Alaska Clean Waters Action (ACWA) Water Experts Group on pass through grants.

DEC will:

- Submit to EPA
 - Final 2014 Alaska *Integrated Water Quality Monitoring and Assessment Report (Integrated Report)* including Alaska's CWA §303(d) impaired water list and petroleum hydrocarbon listing methodology.
 - Two total maximum daily loads (TMDLs).
 - Revised Appendices A and B of the Alaska *Nonpoint Source Water Pollution Control Strategy*, dated September 2013, containing high priority actions and tasks to be conducted between 2014 and 2018.
- Ensure water quality data collected by various programs within DEC are forwarded to DEC's Water Quality Standards, Restoration, and Assessment Program.
- Increase the number of high priority waters from Category 3 of the Integrated Report that are monitored and/or assessed to determine impairment.
- Use a greater percentage of funding for implementation projects protect or restore high priority waters.

Commented [MG6]: For additional elevation and discussion. These bullets were requested by EPA staff, but are NOT recommended by DEC staff. Additional strategic planning by the Division of Water has been scheduled and is necessary prior to making this commitment.

J. NPDES Memorandum of Agreement. To address concerns identified by the Office of the Inspector General, the EPA Office of Wastewater Management (OWM) and the Office of Compliance (OC) reviewed the NPDES Memorandum of Agreement (MOA) between the State of Alaska and EPA, Region 10. The MOA was developed in 2008 at the time of Alaska assuming the NPDES program. There was one subsequent amendment in 2011 specific to the Phase IV transfer of the program. Given the length of time since the MOA was developed and the potential issues identified by the EPA OWM and OC, it is time to review the MOA generally to determine what updates and other changes are needed.

EPA and DEC will:

- Review the existing NPDES/APDES Memorandum of Agreement to determine if updates or other changes are needed.
- If issues are identified, identify mechanisms and develop a timeline for addressing issues.

7. Water Infrastructure

DEC and EPA share an interest in improving environmental protection and public health by making low interest loans available to Alaskan communities and other eligible entities for financing drinking water, wastewater, and water quality related projects. The agencies also have a vested interest in providing sanitation facilities to rural Alaska communities and Alaska Native communities to improve the health and sanitation conditions in these communities and villages. DEC is spearheading a research and development effort to find better and more affordable ways to deliver drinking water and sewage disposal services to rural Alaska. EPA and DEC invest significant funding in these two water infrastructure programs, which are vital to Alaskan communities.

DEC and EPA will:

- Plan to award all available funding.
- Abide by the 2006 three party MOU.
- Follow the 2007 Alaska Native Village Management Control Policy.
- Complete an annual house count survey of all Village Safe Water eligible communities, in coordination with Indian Health Services, to determine the number of eligible homes, number of served homes, and number of

Commented [MG7]: Not clear whether this needs to be in the PPA. Should the Memorandum of Agreement for the NPDES/APDES Program address the update issue directly instead of addressing it through the PPA?

unserved homes to meet the requirements of the Office of Management and Budget. Also, need to track the number of non-serviceable homes.

Commented [MG8]: Funding for the low interest loan program is outside the PPA and PPG. Not clear why this should be included in the PPA. Can these concerns be addressed outside the PPA?

8. Division of Air Quality

A. Air Permits Program & State Implementation Plan

On December 26, 2013, the EPA terminated the Shell Outer Continental Shelf (OCS) air permits for the Noble Discover drillship (Chukchi Sea) and the Kulluk Conical Drilling Unit (Beaufort Sea). The termination of these EPA air permits completed the transition of the regulation of air emissions from future Arctic exploratory drilling operations to the U.S. Department of Interior, Bureau of Ocean Energy Management, consistent with the statutory transfer of authority in the Consolidated Appropriations Act of 2012. EPA retains authority for air quality permitting on the OCS off Cook Inlet and elsewhere in Alaska.

DEC implements CAA requirements through its State Implementation Plan (SIP), which includes regulations and plans designed to prevent and mitigate air pollution impacts in Alaska. DEC and EPA coordinate on and prioritize SIP projects to ensure that Alaska's plan is up to date and federally approvable. Plans by EPA Headquarters to develop SIP implementation guidance and rules related to the NAAQS are an area of mutual interest. DEC and EPA will communicate as needed on these proposals to help ensure that DEC is aware of opportunities to provide timely input and concerns for consideration.

DEC is responsible for ensuring that air emissions from industrial operations in the state do not create unhealthy air. This is accomplished through a fee-based program for permitting actions and compliance assurance inspections. DEC continues to implement a Title V air operating permit program in accordance with 40 CFR Part 70 and all other applicable requirements. DEC also continues to implement a Prevention of Significant Deterioration (PSD)/ New Source Review (NSR) air permitting program in accordance with 40 CFR Part 51, Subpart I, and all other applicable requirements.

DEC will:

- Provide to EPA electronic notifications of all permits in draft, proposed, and final stages based on regulatory requirements of responses for each program.
- Discuss the status of SIPs under development through EPA's quarterly SIP coordination calls.

- Track climate change issues and continue efforts that support the state's climate change activities, such as emission inventory development, regulation amendments and other analyses.
- Track EPA's efforts related to the control of carbon dioxide emissions from existing power plants, comment on any proposed rulemakings and address issues that may be raised.

EPA will:

- Review Title V permits, PSD/NSR permits and on occasion minor source permits and provide response to DEC based on its review.
- Discuss and set priorities for submission and processing of Alaska SIPs through quarterly coordination calls.

B. Air Quality Compliance and Enforcement

EPA and DEC will continue compliance and enforcement activities consistent with the 2006 Compliance Assurance Agreement (CAA).

DEC and EPA will:

- Convene an annual planning meeting for workload needs and enforcement priorities in accord with the CAA.
- Meet every two months to discuss high priority violator caseload and progress.
- Annually develop a list of joint full compliance evaluations. The inspection lists will be consistent with the EPA's Compliance Monitoring Strategy and take into account sector strategies and consideration of State priorities. DEC and EPA will coordinate any changes in the final joint schedules throughout the inspection year in advanced of the inspection.
- Share compliance evaluation reports.

EPA will:

- Provide coaching and assistance to further develop DEC's compliance and enforcement program. Review and provide feedback on DEC's joint inspections.
- Use available mechanisms, including direct enforcement actions where appropriate, to implement the CAA provisions.

Commented [MG9]: Consider re-wording to make sure this is not going to be misconstrued to encourage a repeat of the Chicken, Alaska enforcement controversy?

- Share planned enforcement actions with DEC.

DEC will:

- Develop and submit to EPA a biennial compliance monitoring schedule for stationary sources by September 30.
- Update the Air Facility System (AFS) database no less than once each quarter with DEC compliance and enforcement actions.

B. Fairbanks Air Emissions – Particulate Matter (PM) 2.5 Issues

The Fairbanks 24-hour PM_{2.5} nonattainment area (NAA) will require a focused effort and collaboration among major federal, state, and local agencies to restore the area's air quality. Conditions and the sources that cause or contribute to air pollution in the Fairbanks NAA are not well understood due to the extreme weather and complexity of sources. The EPA, DEC, USDOT, Fairbanks North Star Borough, the community, and industrial facilities in the Fairbanks area will continue to work collaboratively to develop solutions. The Borough's analyses indicate that residential space heating (wood, coal, and oil) are the primary contributors to PM_{2.5} nonattainment in the Fairbanks area. While other sources (e.g. motor vehicle emissions) also contribute to the problem, reducing residential heating-related emissions is essential to a successful attainment plan. In addition to prioritizing the work needed to solve the problem, ongoing technical assistance and funding resources are critical to restoring air quality in this area.

DEC will:

- Continue to review and evaluate tools and analysis from different sources to devise and evaluate control strategies for the NAA, which will restore the air quality and meet federal health-based standards.
- Complete development of a SIP and associated enforcing regulations in preparations for submission to EPA by December 2014.

EPA will:

- Provide in-kind and grant funding to prioritize PM_{2.5} work in Fairbanks.
- Provide informal review and feedback on intermediate work products related to SIP development.

- Provide CAA and regulation related guidance in development of SIP.
- Meet with community and elected officials to align interest in the community towards quickly restoring air quality and public health.

9. Environmental Justice

In 2009, EPA and DEC began a State Environmental Justice Cooperative Agreement (SEJCA) in order to develop protocols for tribal participation in permitting decisions. As DEC brings this project to completion (the final products are under development at this writing) DEC is considering how to further the value of this work. The current cost-benefit analysis of the assumption of Section 404 of the Clean Water Act includes a communication plan that details how to communicate with tribes and local governments regarding that effort and the possible eventual processes for early notification and involvement during 404 permit development. To that end, the 404 team is consulting with the 402 staff that has implemented the SEJCA products. DEC continues to participate in monthly Environmental Justice Region 10 teleconferences and is working to educate staff about the tenets of environmental justice and share strategies to communicate more effectively with underserved populations throughout the state.

10. Community Right to Know

40 C.F.R. Part 355 establishes requirements for facilities storing chemicals to provide information necessary to develop and implement State and local chemical emergency response plans. Under Part 355.10 the State Emergency Response Commission (SERC), the Governor and the Chief Executive Officer of the Tribe(s) where facilities are located must comply with the emergency planning requirements of this part. The State Emergency Response Commission falls under the authority of the Alaska Department of Military and Veterans Affairs (DMVA), Division of Homeland Security and Emergency Management.

It is the responsibility of the SERC to receive notifications from facilities that are subject to reporting under this regulation, which includes initial notification, facility emergency contact information, Receipt of Annual Tier II hazardous chemical inventory reporting and Emergency Release and Written follow up reporting. Immediate emergency telephone reporting will be received by the DMVA Division of Homeland Security and Emergency Management at the 24-hour Emergency Operations Center.

The SERC will manage the Tier II Chemical inventory reporting through input into a database and to make it available to the public and EPA.

DEC will:

- Utilize the Tier II Submit and Computer-aided Management of Emergency Operations (CAMEO) database programs as a means to receive electronically and maintain Tier II information submitted to the SERC. DEC will make the Tier II information available to the public following the Alaska SERC policy and EPA on request.
- Work with the Alaska SERC to establish a web site that instructs facilities on Tier II requirements and allows facilities to report Tier II electronically via Tier II Submit.
- Disseminate Tier II information to the Local Emergency Planning Committee (LEPC) and Tribes as needed for use in emergency planning.

EPA will:

- Meet with DEC and the Alaska SERC as needed to provide assistance.
- Assist DEC and the Alaska SERC with outreach to facilities about reporting electronically with Tier II Submit.
- Make available Tier II Submit and CAMEO for use by DEC and the Alaska SERC.

11. Performance Reporting and Evaluation

DEC and EPA will report on the activities identified in this Agreement semi-annually. Reports will be based on information supporting performance measures and program activity measures identified in this Agreement outlining accomplishment, existing or potential problems, and suggestions for improvement. EPA will schedule a report preview meeting with DEC to discuss the report and make appropriate adjustments.

12. Dispute Resolution

Parties to this Agreement realize there may be different expectations and understandings of the terms of this Agreement by each party from time-to-time. Resolving those differences early will keep each party focused on the intent of the Agreement and avoid difficult, time-consuming situations that disrupt healthy working relationships necessary to achieve mutual success.

EPA and DEC agree to work issues at the lowest level possible, making reasonable efforts to clarify expectations and understandings. If those responsible for implementing activities and achieving expected performance are not able to

resolve disagreements that prevent accomplishments mutually, they are authorized to elevate the matter to the next higher level of responsibility. They will notify their supervisor of this action and schedule a discussion among supervisors and affected staffs. This elevation process will continue up to the program director level. If a matter is not resolved before reaching the program director level, program directors will notify the agency head that they are engaged in resolving a conflict. Most issues will be resolved either before reaching this level or at the conclusions of the director elevation. However, significant issues may remain and will be addressed between the agency heads.